REMARKS

Claim Rejections

Claim 3 is rejected under 35 U.S.C. § 112, second paragraph. Claims 1, 2 and 5 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hill (U.S. 6,062,639). Claims 3 and 4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hill in view of Liu (U.S. 5,054,848).

Drawings

It is noted that no Patent Drawing Review (Form PTO-948) was received with the outstanding Office Action. Thus, Applicant must assume that the drawings are acceptable as filed.

New Claims

By this Amendment, Applicant has canceled claims 1-5 and has added new claims 6-8 to this application. It is believed that the new claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

The new claims are directed toward a safety lock (10) for a folding chair (20) with a knuckle plate (22) comprising: a top (11); two lateral walls (12, 13) pivotally connected at a first end thereof to a seat frame tube (21) of the folding chair; two expanded end surfaces (127, 137), one of the two expanded end surfaces located on a second end of each of the two lateral walls; an open-bottom receiving space (14) located between the two lateral side walls; two curved flanges (123, 133), each of the two curved flanges extending outwardly from the second end of one of the two lateral walls and connected to an adjacent one of the two expanded end surfaces; and two pads (18, 19), each of the two pads located in the open-bottom receiving space and connected to an interior surface of one of the two lateral walls, wherein the two lateral walls are pivotal between locked and unlocked positions, when in the locked position, the seat frame tube is inserted into the open-bottom receiving space and engaged by each of the two pads, and the two expanded end surfaces engage

the knuckle plate of the folding chair to prevent the folding chair from being folded and, when in the unlocked position, the seat frame tube is removed from the open-bottom receiving space to allow the folding chair to be folded.

Other embodiments of the present invention include: the top includes a recess (15), the seat frame tube is located in the recess when the two lateral walls are in the unlocked position; and each of the two curved flanges includes a toothed bottom surface (125, 135).

The primary reference to Hill discloses a folding chair with integral safety feature including a locking body (42) having a hollow (45), a pair of handle slaps (49) extending laterally from the locking body, and a pair of latches (47) protruding from an underbelly (43) of the hollow (45).

Hill does not teach two expanded end surfaces, one of the two expanded end surfaces located on a second end of each of the two lateral walls; two curved flanges, each of the two curved flanges extending outwardly from the second end of one of the two lateral walls and connected to an adjacent one of the two expanded end surfaces; two pads, each of the two pads located in the open-bottom receiving space and connected to an interior surface of one of the two lateral walls; nor does Hill teach, when in the locked position, the seat frame tube is inserted into the open-bottom receiving space and engaged by each of the two pads, and the two expanded end surfaces engage the knuckle plate of the folding chair to prevent the folding chair from being folded.

It is axiomatic in U.S. patent law that, in order for a reference to anticipate a claimed structure, it must clearly disclose each and every feature of the claimed structure. Applicant submits that it is abundantly clear, as discussed above, that Hill does not disclose each and every feature of Applicant's new claims and, therefore, could not possibly anticipate these claims under 35 U.S.C. § 102. Absent a specific showing of these features, Hill cannot be said to anticipate any of Applicant's new claims under 35 U.S.C. § 102.

The secondary reference to Liu discloses a folding chair frame tube positioning device including a coupling buckle (4) sleeved on a back stand frame tube (2) and having two wing ribs (42, 42') at ends (41, 41'), and an arched shaped retaining notch (43).

Liu does not teach two lateral walls pivotally connected at a first end thereof to a seat frame tube of the folding chair; two expanded end surfaces, one of the two expanded end surfaces located on a second end of each of the two lateral walls; two curved flanges, each of the two curved flanges extending outwardly from the second end of one of the two lateral walls and connected to an adjacent one of the two expanded end surfaces; two pads, each of the two pads located in the open-bottom receiving space and connected to an interior surface of one of the two lateral walls; when in the locked position, the seat frame tube is inserted into the open-bottom receiving space and engaged by each of the two pads, and the two expanded end surfaces engage the knuckle plate of the folding chair to prevent the folding chair from being folded; a recess, the seat frame tube is located in the recess when the two lateral walls are in the unlocked position; nor does Liu teach each of the two curved flanges includes a toothed bottom surface.

Even if the teachings of Hill and Liu were combined, as suggested by the Examiner, the resultant combination does not suggest: 1) two expanded end surfaces, one of the two expanded end surfaces located on a second end of each of the two lateral walls; 2) two curved flanges, each of the two curved flanges extending outwardly from the second end of one of the two lateral walls and connected to an adjacent one of the two expanded end surfaces; 3) two pads, each of the two pads located in the open-bottom receiving space and connected to an interior surface of one of the two lateral walls; nor does the combination suggest 4), when in the locked position, the seat frame tube is inserted into the open-bottom receiving space and engaged by each of the two pads, and the two expanded end surfaces engage the knuckle plate of the folding chair to prevent the folding chair from being folded.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over

40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

> The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

> As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

> We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either Hill or Liu that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Hill nor Liu disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's new claims.

Summary

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

Date: July 6, 2004 By: _____

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